

AN ACT

relating to individuals and organizations providing certain services and liability in connection with prescribed burns.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 352.081(f), Local Government Code, is amended to read as follows:

(f) This section does not apply to outdoor burning activities:

(1) related to public health and safety that are authorized by the Texas Commission on Environmental Quality for:

(A) firefighter training;

(B) public utility, natural gas pipeline, or mining operations; or

(C) planting or harvesting of agriculture crops;

or

(2) that are conducted by a certified and insured prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code [~~, or~~

~~(3) that are conducted by the members of a prescribed burning organization under the conditions provided by Section 153.049, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code].~~

SECTION 2. Sections 153.004, 153.046, and 153.047, Natural

1 Resources Code, are amended to read as follows:

2           Sec. 153.004. PRESCRIBED BURNING IN STATE OF EMERGENCY OR  
3 DISASTER. A certified and insured prescribed burn manager [~~or the~~  
4 ~~members of a prescribed burning organization~~] may conduct a burn in  
5 a county in which a state of emergency or state of disaster has been  
6 declared by the governor or the president of the United States,  
7 unless the declaration expressly prohibits all outdoor burning.

8           Sec. 153.046. DUTIES. The board shall:

9                   (1) establish standards for prescribed burning;

10                   (2) develop a comprehensive training curriculum for  
11 certified and insured prescribed burn managers;

12                   (3) establish standards for certification,  
13 recertification, and training for certified and insured prescribed  
14 burn managers;

15                   (4) establish minimum education and professional  
16 requirements for instructors for the approved curriculum; and

17                   (5) establish insurance requirements for certified  
18 and insured prescribed burn managers in amounts not less than those  
19 required by Section 153.082 [~~, and~~

20                   ~~(6) establish minimum insurance requirements for~~  
21 ~~prescribed burning organizations~~].

22           Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum  
23 standards established by the board for prescribed burning must:

24                   (1) ensure that prescribed burning is the controlled  
25 application of fire to naturally occurring or naturalized  
26 vegetative fuels under specified environmental conditions in  
27 accordance with a written prescription plan:

1 (A) designed to confine the fire to a  
2 predetermined area and to accomplish planned land management  
3 objectives; and

4 (B) that conforms to the standards established  
5 under this section;

6 (2) require that~~+~~

7 [~~(A)~~] at least one certified and insured  
8 prescribed burn manager is present on site during the conduct of the  
9 prescribed burn; ~~or~~

10 [~~(B) the burn be conducted by the members of a~~  
11 ~~prescribed burning organization;~~]

12 (3) establish appropriate guidelines for size of  
13 burning crews sufficient to:

14 (A) conduct the burn in accordance with the  
15 prescription plan; and

16 (B) provide adequate protection for the safety of  
17 persons and of adjacent property;

18 (4) include standards for notification to adjacent  
19 land owners, the Texas Commission on Environmental Quality, and  
20 local fire authorities; and

21 (5) include minimum insurance requirements for  
22 certified and insured prescribed burn managers [~~and prescribed~~  
23 ~~burning organizations~~].

24 SECTION 3. Section [153.081](#)(a), Natural Resources Code, is  
25 amended to read as follows:

26 (a) Subject to Section [153.082](#), an owner, lessee, or  
27 occupant of agricultural or conservation land is not liable for

1 property damage or for injury or death to persons caused by or  
2 resulting from prescribed burning conducted on the land owned by,  
3 leased by, or occupied by the person if the prescribed burning is  
4 conducted[+]

5 [~~(1)~~] under the supervision of a certified and insured  
6 prescribed burn manager [~~+or~~

7 [~~(2) by the members of a prescribed burning~~  
8 ~~organization~~].

9 SECTION 4. Section 153.082, Natural Resources Code, is  
10 amended to read as follows:

11 Sec. 153.082. INSURANCE. The limitation on liability under  
12 Section 153.081 does not apply to an owner, lessee, or occupant of  
13 agricultural or conservation land unless:

14 (1) the burn is conducted under the supervision of a  
15 certified and insured prescribed burn manager who has liability  
16 insurance coverage:

17 (A) of at least \$1 million for each single  
18 occurrence of bodily injury or death, or injury to or destruction of  
19 property; and

20 (B) with a policy period minimum aggregate limit  
21 of at least \$2 million; or

22 (2) the owner, lessee, or occupant is a governmental  
23 unit, as that term is defined by Section 2259.001, Government Code,  
24 that has a self-insurance program that provides the amount of  
25 coverage required by Subdivision (1) [~~+or~~

26 [~~(3) the burn is conducted by the members of a~~  
27 ~~prescribed burning organization that has insurance coverage in an~~

1 ~~amount not less than the amount established by the board under~~  
2 ~~Section 153.046].~~

3 SECTION 5. Subchapter C, Chapter 153, Natural Resources  
4 Code, is amended by adding Section 153.083 to read as follows:

5 Sec. 153.083. LIABILITY REGARDING CERTAIN PRESCRIBED  
6 BURNS. (a) In this section, "burn boss" means an individual  
7 responsible for directing a prescribed burn under a written  
8 prescription plan described by Section 153.047.

9 (b) Except as provided by Subsection (c), if a prescribed  
10 burn is conducted in accordance with a written prescription plan  
11 described by Subsection (d) and Section 153.047, a person may be  
12 held liable for property damage, personal injury, or death caused  
13 by or resulting from the burn only if the person:

- 14 (1) is the burn boss; and  
15 (2) is otherwise liable under other law.

16 (c) Subject to Sections 153.081 and 153.082, a person other  
17 than the burn boss, including a person assisting or acting under the  
18 direction of the burn boss, may be held liable for property damage,  
19 personal injury, or death caused by or resulting from the burn only  
20 if the person:

- 21 (1) commits gross negligence or intentionally causes  
22 the property damage, personal injury, or death; and  
23 (2) is otherwise liable under other law.

24 (d) For purposes of this section, if the burn boss is not the  
25 owner, lessee, or occupant of the land on which the burn is  
26 conducted, the written prescription plan must include:

- 27 (1) the signature of:

1                   (A) the burn boss; or  
2                   (B) the owner, lessee, or occupant of the land on  
3 which the burn is conducted; and

4                   (2) a contract acknowledging liability.

5           (e) Nothing in this section may be construed to create a  
6 cause of action or to create a standard of care, obligation, or duty  
7 that forms the basis of a cause of action.

8           SECTION 6. Sections [153.001\(3\)](#) and [153.049](#), Natural  
9 Resources Code, are repealed.

10           SECTION 7. The change in law made by this Act applies only  
11 to a cause of action that accrues on or after the effective date of  
12 this Act. A cause of action that accrues before the effective date  
13 of this Act is governed by the law applicable to the cause of action  
14 immediately before the effective date of this Act, and that law is  
15 continued in effect for that purpose.

16           SECTION 8. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2053 was passed by the House on April 18, 2019, by the following vote: Yeas 133, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2053 on May 24, 2019, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2053 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor